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EXAMINER

TRAN, QUOC A

ART UNIT

PAPER NUMBER

2176

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782,064

Applicant(s)

MOTOYAMA ET AL.

Examiner

Quoc A. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communication: Appeal Brief filed 10/12/2005 with recognition of an original filing date of 02/14/2001.
2. Claims 1-24 are pending. Claims 1, 9 and 17 are independent claims.

Response to Argument

3. In view of the Appeal Brief filed on 10/21/2005, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193 (b) (2).

Applicant's arguments, in the filed Appeal Brief on 10/21/2005 with respect to claim 1-24 have been considered but are moot in view of the new ground(s) of rejection. This office action is a Non-Final Rejection in order to give the applicant sufficient opportunity to response to the new line of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1- 4, 10-12 and 18-20** are rejected under 35 U.S.C. 103(a) as being unpatentable by Aikens et al. US005414494A – filed 12/06/1993 (hereinafter Aikens ‘494), in view of Allard et al. US006018619A – filed 05/24/1996 (hereinafter Allard ‘619).

In regard to independent claim 1, receiving from a first one of the plurality of target applications through an interface by a monitoring device in the appliance or device, (Aikens ‘494 at col. 2, line 25 through col. 7, line 20, also see Fig. 1-6, discloses a plurality of devices interconnected to a host machine, each of the devices having image processing components for forming images on a medium and a controller for directing the operation of the image processing components including a device monitoring element to sense predetermined device conditions, a method for notifying the host machine in response to device conditions detected by the device monitoring element, wherein user interface with screen (item 163) is provided at the remote host (item 157) for use in establishing communication with modems (items 121, 120) for transmission of data from machine (item 30) via line (item 175) to host (item 157) and from host 157 to machine 30, for example Work station (item 4) includes a user interface (UI) item 27 that uses icons and windows to represent various data objects and user applications such as display

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illustrating an office desktop metaphor employing various abstractions of a typical office and work station environment),

Aikens '494 does not explicitly teach, **a request to send first information monitored usage of the first one of the plurality of target applications to a first predetermined destination through a first communication protocol using a first data format**, however (Allard '619 at col. 4, line 45 through col. 8, line 15, discloses a usage tracking systems is directed to usage tracking systems for client-side usage tracking servers for computers connected by a communications network according to the client-server model, wherein the client-side usage tracking log, representing the client object requests and processing during the session, is sent to the designated usage log server using Hypertext Transfer Protocol (HTTP), wherein in response to said connection request, returning to said requesting client system and a location of a designated server for receiving tracked session event. The usage tracking data object is a data packet having certain header information and a number of usage data members representing client usage for particular links at a Web site. The header information will include the version of the usage tracking data object format, the number of usage data members that will be found in the object, the method by which a client is connected to the information server, and an options area for determining what information to track. It is yet another object of this invention to provide proxy servers the ability to track usage of clients),

and receiving from a second one of the plurality of target applications through the interface, by the monitoring device, a request to send second information regarding monitored usage of the second one of the plurality of target applications to a second predetermined destination through a second communication protocol using a second data

format, wherein the first communication protocol is different from the second communication protocol, however (Allard '619 at col. 4, line 45 through col. 8, line 15, discloses a usage tracking systems is directed to usage tracking systems for client-side usage tracking servers for computers connected by a communications network according to the client-server model, wherein the client-side usage tracking log, representing the client object requests and processing during the session, is sent to the designated usage log server using Hypertext Transfer Protocol (HTTP), wherein in response to said connection request, returning to said requesting client system and a location of a designated server for receiving tracked session event. The usage tracking data object is a data packet having certain header information and a number of usage data members representing client usage for particular links at a Web site. The header information will include the version of the usage tracking data object format, the number of usage data members that will be found in the object, the method by which a client is connected to the information server, and an options area for determining what information to track. It is yet another object of this invention to provide proxy servers the ability to track usage of clients, also as described by Allard '619 at col. 1, line 15 through col. 2, line 45, such information is made available on a server computer that can be accessed through use of a communications network by one or more remote client computers using the appropriate conventions and protocols. Also, the Internet provides large scale access of many differing kinds of information by a variety of clients) Examiner read the above in the broadest reasonable interpretation to the claim limitation, wherein the first communication protocol is different from the second communication protocol would have been an obvious variant of one or more remote

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client computers using the appropriate conventions and protocols, to a person of ordinary skill in the art at the time the invention was made.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Aikens 494 teaching, wherein receiving from a first one of the plurality of target applications through an interface by a monitoring device in the appliance or device, to includes a means of a request to send first information monitored usage of the first one of the plurality of target applications to a first predetermined destination through a first communication protocol using a first data format and receiving from a second one of the plurality of target applications through the interface, by the monitoring device, a request to send second information regarding monitored usage of the second one of the plurality of target applications to a second predetermined destination through a second communication protocol using a second data format, wherein the first communication protocol is different from the second communication protocol of Allard '619 teaching. One of the ordinary skill in the art would have been motivated to modify this combination for the advantages of enabling the information server to communicate to the client or proxy server which of a number of different statistics the tracking agent should record and a level of customization that is in control of the service provider that can be tailored to particular needs and implementations (as taught by Allard '619 at col. 7, lines 35-50).

In regard to independent claims 9 and 17, incorporate substantially similar subject matter as cited in claim 1 above, and are similarly rejected along the same rationale.

In regard to dependent claim 2, wherein the first data format includes one of text format, binary format, comma separated format and XML format and the first

communication protocol includes one of, Simple Mail Transfer Protocol (SMTP), File Transfer Protocol and local disk, however (Allard '619 at col. 1, line 50 through col. 8, line 15, discloses a usage tracking systems is directed to usage tracking systems for client-side usage tracking servers for computers connected by a communications network according to the client-server model, wherein the client-side usage tracking log, representing the client object requests and processing during the session, is sent to the designated usage log server using Hypertext Transfer Protocol (HTTP), wherein in response to said connection request, returning to said requesting client system and a location of a designated server for receiving tracked session event. The usage tracking data object is a data packet having certain header information and a number of usage data members representing client usage for particular links at a Web site. The header information will include the version of the usage tracking data object format, the number of usage data members that will be found in the object, the method by which a client is connected to the information server, and an options area for determining what information to track. Typically, a user will access a particular object, often a hypertext document (though audio files, video clips, and other object types exist and are popular), from an information server to be processed or interpreted at the client computer running a "Browser." A hypertext document is an ASCII file having text and coded information according to the Hyper Text Markup Language ("HTML") definition). It is known in the art that Hypertext Transfer Protocol (HTTP) includes Simple Mail Transfer Protocol (SMTP), File Transfer Protocol through RFC 821, 959.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Aikens '494 teaching, wherein receiving from a first one

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of the plurality of target applications through an interface by a monitoring device in the appliance or device, to includes a means of a request to send first information monitored usage of the first one of the plurality of target applications to a first predetermined destination through a first communication protocol using a first data format and receiving from a second one of the plurality of target applications through the interface, by the monitoring device, a request to send second information regarding monitored usage of the second one of the plurality of target applications to a second predetermined destination through a second communication protocol using a second data format, wherein the first communication protocol is different from the second communication protocol, further to include the first data format includes one of text format, binary format, comma separated format and XML format and the first communication protocol includes one of, File Transfer Protocol of Allard '619 teaching . One of the ordinary skill in the art would have been motivated to modify this combination for the advantages of enabling the information server to communicate to the client or proxy server which of a number of different statistics the tracking agent should record and a level of customization that is in control of the service provider that can be tailored to particular needs and implementations (as taught by Allard '619 at col. 7, lines 35-50).

In regard to dependent claim 3, incorporate substantially similar subject matter as cited in claim 1 above, and is similarly rejected along the same rationale.

In regard to dependent claim 4, incorporate substantially similar subject matter as cited in claim 1 above, and further view of the following, and is similarly rejected along the same rationale,

formatting the second information into second formatted data according to the second data format, however (Allard '619 at col. 1, line 50 through col. 8, line 15, discloses a usage tracking systems is directed to usage tracking systems for client-side usage tracking servers for computers connected by a communications network according to the client-server model, wherein the client-side usage tracking log, representing the client object requests and processing during the session, is sent to the designated usage log server using Hypertext Transfer Protocol (HTTP), wherein in response to said connection request, returning to said requesting client system and a location of a designated server for receiving tracked session event. The usage tracking data object is a data packet having certain header information and a number of usage data members representing client usage for particular links at a Web site. The header information will include the version of the usage tracking data object format, the number of usage data members that will be found in the object, the method by which a client is connected to the information server, and an options area for determining what information to track. Typically, a user will access a particular object, often a hypertext document (though audio files, video clips, and other object types exist and are popular), from an information server to be processed or interpreted at the client computer running a "Browser." A hypertext document is an ASCII file having text and coded information according to the Hyper Text Markup Language ("HTML") definition). It is known in the art that Hypertext Transfer Protocol (HTTP) includes Simple Mail Transfer Protocol (SMTP), File Transfer Protocol through RFC 821, 959.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Aikens '494 teaching, wherein receiving from a first one of the plurality of target applications through an interface by a monitoring device in the

appliance or device, to includes a means of formatting the second information into second formatted data according to the second data format of Allard '619 teaching. One of the ordinary skill in the art would have been motivated to modify this combination for the advantages of enabling the information server to communicate to the client or proxy server which of a number of different statistics the tracking agent should record and a level of customization that is in control of the service provider that can be tailored to particular needs and implementations (as taught by Allard '619 at col. 7, lines 35-50).

In regard to dependent claims 10 and 18, incorporate substantially similar subject matter as cited in claim 2 above, and are similarly rejected along the same rationale.

In regard to dependent claim 11, incorporate substantially similar subject matter as cited in claim 1 above, and is similarly rejected along the same rationale.

In regard to dependent claims 12 and 20, incorporate substantially similar subject matter as cited in claim 4 above, and are similarly rejected along the same rationale.

In regard to dependent claim 19, incorporate substantially similar subject matter as cited in claim 3 above, and is similarly rejected along the same rationale.

6. **Claims 5-8, 13-16 and 21-24** are rejected under 35 U.S.C. 103(a) as being unpatentable by Aikens et al. US005414494A – filed 12/06/1993 (hereinafter Aikens '494), in view of Allard et al. US006018619A – filed 05/24/1996 (hereinafter Allard '619), further in view of D'Souza et al. US006745224B1– filed 12/06/1996 (hereinafter D'Souza '224).

In regard to dependent claim 5, Aikens '494 and Allard '619 do not explicitly teach, **wherein the step of formatting the first information includes creating a first software class**

having a declared virtual function, creating a second software class derived from the first software class having a first definition of the declared virtual function, however (D'Souza '224 at col. 15, line 10 through col. 30, line 55, also see Fig. 1-8, discloses an object-oriented software framework that provides services to support periodically recurring operations, including change monitoring and updating of locally stored copies of remote documents so as to be available for off line use, wherein An object is an instance of a programmer-defined type referred to as a class, which exhibits the characteristics of data encapsulation, polymorphism (e.g. Polymorphism refers to the ability to view (i.e., interact with) two similar objects through a common interface) and inheritance (e.g. Inheritance refers to the derivation of different classes of objects from a base class, where the derived classes inherit the properties and characteristics of the base class (which for purposes of OLE are the interfaces of the base class)). As illustrating in Fig. 8 the interfaces of an object are illustrated graphically as a plug-in jack as shown for the document object in FIG. 8. Objects can include multiple interfaces, which are implemented with one or more virtual function tables. The member function of an interface is denoted as "IInterfaceName::FunctionName.",

and creating a first formatted information software object, however (D'Souza '224 at col. 9, lines 15-65, also see Fig. 2 and 9, discloses an object-oriented framework including a set of software modules that is described below with reference to FIG. 9. Web Check 53 includes a core set of software modules with interfaces for a client application program to set up, schedule and monitor periodically recurring operations implemented by an agent program. the agent programs in the illustrated system implement updating operations for use by the operating system and application software (such as the browser 51) to automatically monitor a specified

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document (e.g., HTML document 60) residing at a remote site on a computer network for changes and maintain an up-to-date locally stored copy of the document for later off-line use).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Aikens '494 teaching, wherein receiving from a first one of the plurality of target applications through an interface by a monitoring device in the appliance or device, to includes a means of formatting the second information into second formatted data according to the second data format of Allard '619 teaching, further to include a means of creating a first software class having a declared virtual function, creating a second software class derived from the first software class having a first definition of the declared virtual function and creating a first formatted information software object of D'Souza '224. One of the ordinary skill in the art would have been motivated to modify this combination for the advantages of enabling the information server to communicate to the client or proxy server which of a number of different statistics the tracking agent should record and a level of customization that is in control of the service provider that can be tailored to particular needs and implementations (as taught by Allard '619 at col. 7, lines 35-50).

In regard to dependent claim 6, formatting first formatted information according to one of comma separated format and XML format, however (Allard '619 at col. 1, line 50 through col. 8, line 15, discloses a usage tracking systems is directed to usage tracking systems for client-side usage tracking servers for computers connected by a communications network according to the client-server model, wherein the client-side usage tracking log, representing the client object requests and processing during the session, is sent to the designated usage log server using Hypertext Transfer Protocol (HTTP), wherein in response to said connection request,

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returning to said requesting client system and a location of a designated server for receiving tracked session event. The usage tracking data object is a data packet having certain header information and a number of usage data members representing client usage for particular links at a Web site. The header information will include the version of the usage tracking data object format, the number of usage data members that will be found in the object, the method by which a client is connected to the information server, and an options area for determining what information to track. Typically, a user will access a particular object, often a hypertext document (though audio files, video clips, and other object types exist and are popular), from an information server to be processed or interpreted at the client computer running a "Browser." A hypertext document is an ASCII file having text and coded information according to the Hyper Text Markup Language ("HTML") definition). It is known in the art that Hypertext Transfer Protocol (HTTP) includes Simple Mail Transfer Protocol (SMTP), File Transfer Protocol through RFC 821, 959.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Aikens '494 teaching, wherein receiving from a first one of the plurality of target applications through an interface by a monitoring device in the appliance or device, to include a means of creating a first software class having a declared virtual function, creating a second software class derived from the first software class having a first definition of the declared virtual function and creating a first formatted information software object of D'Souza '224, further to include a means of formatting first formatted information according to one of comma separated format and XML format of Allard '619 teaching . One of the ordinary skill in the art would have been motivated to modify this combination for the

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advantages of enabling the information server to communicate to the client or proxy server which of a number of different statistics the tracking agent should record and a level of customization that is in control of the service provider that can be tailored to particular needs and implementations (as taught by Allard '619 at col. 7, lines 35-50).

In regard to dependent claim 7, incorporate substantially similar subject matter as cited in claim 5 above, and further view of the following, and is similarly rejected along the same rationale,

the third software class, derives from the first software class, having a second definition of the declare virtual function, however (D'Souza '224 at col. 15, line 10 through col. 30, line 55, also see Fig. 1-8, discloses an object-oriented software framework that provides services to support periodically recurring operations, including change monitoring and updating of locally stored copies of remote documents so as to be available for off line use, wherein An object is an instance of a programmer-defined type referred to as a class, which exhibits the characteristics of data encapsulation, polymorphism (e.g. Polymorphism refers to the ability to view (i.e., interact with) two similar objects through a common interface) and inheritance (e.g. Inheritance refers to the derivation of different classes of objects from a base class, where the derived classes inherit the properties and characteristics of the base class (which for purposes of OLE are the interfaces of the base class)). As illustrating in Fig. 8 the interfaces of an object are illustrated graphically as a plug-in jack as shown for the document object in FIG. 8. Objects can include multiple interfaces, which are implemented with one or more virtual function tables. The member function of an interface is denoted as "IInterfaceName::FunctionName.",

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Aikens '494 teaching, wherein receiving from a first one of the plurality of target applications through an interface by a monitoring device in the appliance or device, to includes a means of formatting the second information into second formatted data according to the second data format of Allard '619 teaching, further to include a means of creating a third software class, derives from the first software class, having a second definition of the declare virtual function and creating a first formatted information software object of D'Souza '224. One of the ordinary skill in the art would have been motivated to modify this combination for the advantages of enabling the information server to communicate to the client or proxy server which of a number of different statistics the tracking agent should record and a level of customization that is in control of the service provider that can be tailored to particular needs and implementations (as taught by Allard '619 at col. 7, lines 35-50).

In regard to dependent claim 8, incorporate substantially similar subject matter as cited in claims 1 and 5 above, and is similarly rejected along the same rationale.

In regard to dependent claims 13-16 consecutively, incorporate substantially similar subject matter as cited in claims 5-8 consecutively above, and are similarly rejected along the same rationale.

In regard to dependent claims 21-24 consecutively, incorporate substantially similar subject matter as cited in claims 5-8 consecutively above, and are similarly rejected along the same rationale.

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc A. Tran whose telephone number is (571) 272-4103. The examiner can normally be reached on Monday through Friday from 9 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Herndon R. Heather can be reached on (571) -272-4136. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Quoc A, Tran
Patent Examiner
Technology Center 2176
January 3, 2006

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
1/3/2006